

SENATE FLOOR SUBSTITUTE FOR
SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 142

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE RECYCLING AND ILLEGAL
DUMPING ACT; EXPANDING THE TIRE RECYCLING PROGRAM; PROVIDING
PROHIBITIONS; PROVIDING FOR INSPECTIONS OF PREMISES; PROVIDING
FOR COMPLIANCE ORDERS AND FIELD CITATIONS; CREATING THE
RECYCLING AND ILLEGAL DUMPING ALLIANCE; AMENDING, REPEALING
AND ENACTING SECTIONS OF THE NMSA 1978; PROVIDING PENALTIES;
MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 20 of this act may be cited as the "Recycling and
Illegal Dumping Act".

Section 2. [NEW MATERIAL] LEGISLATIVE PURPOSES. -- The
purposes of the Recycling and Illegal Dumping Act are to:

A. protect the health and welfare of current and

1 future residents of New Mexico by providing for the prevention
2 and abatement of illegal dumpsites;

3 B. promote environmentally sound methods for reuse
4 and recycling;

5 C. create a statewide recycling alliance involving
6 the cooperation of cities, counties, state agencies, tribal
7 governments, land grant communities and private business to
8 encourage economic development, community development and
9 collaboration that foster sustainable use of resources,
10 increased recycling and a cleaner and healthier environment;
11 and

12 D. enhance and coordinate existing highway litter
13 control and removal and recycling efforts that include the
14 recycling of tires, glass, plastic, metal, paper products,
15 electronic waste and construction and demolition materials.

16 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
17 Recycling and Illegal Dumping Act:

18 A. "abatement" means to reduce in amount, degree or
19 intensity or to eliminate;

20 B. "agricultural use" means the beneficial use of
21 scrap tires in conjunction with the operations of a farm or
22 ranch that includes construction projects and aids in the
23 storage of feed;

24 C. "alliance" means the recycling and illegal
25 dumping alliance;

1 D. "board" means the environmental improvement
2 board;

3 E. "civil engineering application" means the use of
4 scrap tires or other recycled material in conjunction with
5 other aggregate materials in engineering applications;

6 F. "composting" means the process by which
7 biological decomposition of organic material is carried out
8 under controlled conditions and the process stabilizes the
9 organic fraction into a material that can be easily and safely
10 stored, handled and used in an environmentally acceptable
11 manner;

12 G. "cooperative association" means a refuse
13 disposal district created pursuant to the Refuse Disposal Act,
14 a sanitation district created pursuant to the Water and
15 Sanitation District Act, a special district created pursuant to
16 the Special District Procedures Act or other associations
17 created pursuant to the Joint Powers Agreements Act or the
18 Solid Waste Authority Act;

19 H. "department" means the department of
20 environment;

21 I. "dispose" means to deposit scrap tires or solid
22 waste into or on any land or water;

23 J. "household" means any single and multiple
24 residence, hotel or motel, bunkhouse, ranger station, crew
25 quarters, campground, picnic ground or day-use recreation area;

. 157531. 1

1 K. "illegal dumping" means disposal of trash, scrap
2 tires or any solid waste in a manner that violates the Solid
3 Waste Act or the Recycling and Illegal Dumping Act;

4 L. "illegal dumpsite" means a place where illegal
5 dumping has occurred except as stated in Subsection A of
6 Section 4 of the Recycling and Illegal Dumping Act;

7 M "market development" means activities to expand
8 or create markets for recyclable and reusable materials;

9 N. "motor vehicle" means a vehicle or device that
10 is propelled by an internal combustion engine or electric motor
11 power that is used or may be used on the public highways for
12 the purpose of transporting persons or property and includes
13 any connected trailer or semitrailer;

14 O. "processing" means techniques to change
15 physical, chemical or biological character or composition of
16 solid waste but does not include composting, transformation or
17 open burning;

18 P. "recycling" means any process by which
19 recyclable materials are collected, separated or processed and
20 reused or returned to use in the form of raw materials or
21 products;

22 Q. "reuse" means the return of a commodity into the
23 economic stream without a change to its original form;

24 R. "scrap tire" means a tire that is no longer
25 suitable for its originally intended purpose because of wear,

1 damage or defect;

2 S. "scrap tire baling" means the process by which
3 scrap tires are mechanically compressed and bound into block
4 form;

5 T. "scrap tire generator" means a person who
6 generates scrap tires, including retail tire dealers,
7 retreaders, scrap tire processors, automobile dealers,
8 automobile salvage yards, private company vehicle maintenance
9 shops, garages, service stations and city, county and state
10 government, but does not include persons who generate scrap
11 tires in a household or in agricultural operations;

12 U. "scrap tire hauler" means a person who
13 transports scrap tires for hire for the purpose of recycling,
14 disposal, transformation or use in a civil engineering
15 application;

16 V. "secretary" means the secretary of environment;

17 W. "tire" means a continuous solid or pneumatic
18 rubber covering that encircles the wheel of a motor vehicle;

19 X. "tire-derived fuel" means whole or chipped tires
20 that produce a low sulfur, high-heating-value fuel;

21 Y. "tire-derived product" means a usable product
22 produced from the processing of a scrap tire but does not
23 include baled tires;

24 Z. "tire recycling" means a process in which scrap
25 tires are collected, stored, separated or reprocessed for reuse

. 157531. 1

1 as a different product or shredded into a form suitable for use
2 in rubberized asphalt or as raw material for the manufacture of
3 other products; and

4 AA. "tire recycling facility" means a place
5 operated or maintained for tire recycling but does not
6 include:

7 (1) retail business premises where tires are
8 sold, if no more than five hundred loose scrap tires or two
9 thousand scrap tires, if left in a closed conveyance or
10 enclosure, are kept on the premises at one time;

11 (2) the premises of a tire retreading
12 business, if no more than three thousand scrap tires are kept
13 on the premises at one time;

14 (3) premises where tires are removed from
15 motor vehicles in the ordinary course of business, if no more
16 than five hundred scrap tires are kept on the premises at one
17 time;

18 (4) a solid waste facility having a valid
19 permit or registration issued pursuant to the provisions of the
20 Solid Waste Act or regulations adopted pursuant to that act or
21 registration issued pursuant to the Environmental Improvement
22 Act; or

23 (5) a site where tires are stored or used for
24 agricultural uses.

25 Section 4. [NEW MATERIAL] PROHIBITED ACTS. --

1 A. A person shall not store or use in a civil
2 engineering application, except for agricultural use, more than
3 one hundred scrap tires anywhere in this state, unless the
4 person has a valid permit or registration from the department.

5 B. A person shall not operate or maintain a tire
6 recycling facility unless the facility has a valid permit
7 issued pursuant to the provisions of the Recycling and Illegal
8 Dumping Act or is a facility where tires are stored and used
9 for agricultural uses and complies with rules enacted pursuant
10 to the Recycling and Illegal Dumping Act.

11 C. A person shall not transport scrap tires for
12 hire to a place other than a tire recycling facility unless the
13 place is specifically excluded from the definition of a "tire
14 recycling facility".

15 D. A person shall not transport scrap tires for
16 hire either for disposal or recycling purposes without being
17 registered as a scrap tire hauler by the department pursuant to
18 rules adopted in accordance with the Recycling and Illegal
19 Dumping Act.

20 E. A scrap tire generator shall not release scrap
21 tires to a person other than a registered scrap tire hauler
22 pursuant to the Recycling and Illegal Dumping Act or a
23 registered commercial waste hauler pursuant to the Solid Waste
24 Act.

25 F. A person shall not engage in the open burning of

1 scrap tires.

2 G. A person shall not store or dispose of scrap
3 tires or tire-derived products in a manner that creates a
4 public nuisance, promotes the breeding or harboring of disease
5 vectors or creates a potential for fire or other health or
6 environmental hazards.

7 H. Except for agricultural uses, a person shall not
8 store scrap tires or tire-derived products for a period
9 exceeding twelve months unless specifically authorized by the
10 secretary.

11 I. A scrap tire hauler shall not transport scrap
12 tires without possessing a New Mexico scrap tire manifest
13 approved by the department.

14 J. A person shall not engage in, maintain or allow
15 illegal dumping.

16 Section 5. [NEW MATERIAL] FACILITIES--ENTRY BY
17 DEPARTMENT--AVAILABILITY OF RECORDS TO DEPARTMENT AND OTHERS.--

18 A. The secretary or any authorized representative,
19 employee or agent of the department may:

20 (1) enter a facility of a scrap tire
21 generator, scrap tire hauler or tire recycling facility at any
22 reasonable time for the purpose of making a routine inspection
23 or investigation of scrap tire management practices based on
24 reasonable evidence of a violation of the Recycling and Illegal
25 Dumping Act;

. 157531. 1

1 (2) take and analyze samples of the facility's
2 waste, soil, air or water in order to detect the nature and
3 concentration of contaminants, including those produced by
4 leaching, natural decomposition, gas production or hazardous
5 products in the facility, and the owner or operator shall have
6 the right to split the sample and conduct the owner or
7 operator's own analysis;

8 (3) for the purposes of developing or
9 assisting in the development of rules, conducting a study,
10 taking corrective action or enforcing the provisions of the
11 Recycling and Illegal Dumping Act, conduct monitoring or
12 testing of the equipment, contents or surrounding soil, air,
13 surface water or ground water at the facility of a scrap tire
14 generator, scrap tire hauler or tire recycling facility; and

15 (4) in coordination with the secretary of
16 transportation, conduct at weigh stations or any other adequate
17 site or facility inspections of scrap tire haulers.

18 B. Records, reports or information obtained by the
19 department pursuant to this section shall be available to the
20 public, except that information shall be treated confidentially
21 upon a showing, satisfactory to the department, that records,
22 reports or information or a particular part of the records,
23 reports or information, if made public, would divulge
24 information entitled to protection under the provisions of 18
25 USCA Section 1905. That record, report or information may be

. 157531. 1

1 disclosed to officers, employees or authorized representatives
2 of the United States concerned with carrying out the
3 federal Resource Conservation and Recovery Act of 1976 or to
4 officers, employees or authorized representatives of the state
5 when relevant in any proceedings pursuant to the Solid Waste
6 Act.

7 C. A person not subject to the provisions of 18
8 USCA Section 1905 who knowingly and willfully divulges or
9 discloses information entitled to protection pursuant to this
10 section shall, upon conviction, be subject to a fine of not
11 more than five thousand dollars (\$5,000) or to imprisonment not
12 to exceed one year or both.

13 D. In submitting data pursuant to the Recycling and
14 Illegal Dumping Act, a person required to provide such data
15 may:

16 (1) designate, in writing and in such manner
17 as the secretary may prescribe, the data the person believes is
18 entitled to protection pursuant to this section; and

19 (2) submit the designated data separately from
20 other data submitted pursuant to the Recycling and Illegal
21 Dumping Act.

22 Section 6. [NEW MATERIAL] ADMINISTRATION OF ACT. --The
23 department is responsible for the administration and
24 enforcement of the provisions of the Recycling and Illegal
25 Dumping Act and of all rules adopted by the board pursuant to

1 the provisions of that act. The department is delegated all
2 authority necessary and appropriate to carry out its
3 responsibilities.

4 Section 7. [NEW MATERIAL] RECYCLING AND ILLEGAL DUMPING
5 ALLIANCE. --

6 A. The "recycling and illegal dumping alliance" is
7 created and is comprised of one member from each of the
8 following:

- 9 (1) state government;
- 10 (2) local government;
- 11 (3) a solid waste authority;
- 12 (4) an industry waste generator;
- 13 (5) a tribal government;
- 14 (6) a nonprofit organization;
- 15 (7) a recycling company;
- 16 (8) a retailer;
- 17 (9) an agricultural producer;
- 18 (10) a soil and water conservation district;
- 19 (11) a waste management company; and
- 20 (12) the public at large.

21 B. The secretary shall appoint members of the
22 alliance to serve two-year terms as volunteers with no
23 compensation from the state.

24 C. The alliance shall:

- 25 (1) develop strategies to increase recycling

underscored material = new
[bracketed material] = delete

1 and decrease illegal dumping in New Mexico;

2 (2) create a state recycling plan, as a
3 component of the New Mexico solid waste management plan, to
4 establish programs and goals and update the plan every three
5 years to measure progress and modify strategies; and

6 (3) review and make recommendations for
7 funding grant applications from the recycling and illegal
8 dumping fund.

9 Section 8. [NEW MATERIAL] RULES--AUTHORITY AND CONTENT. --

10 The board shall adopt rules to implement the provisions of the
11 Recycling and Illegal Dumping Act. The rules shall be adopted
12 pursuant to the provisions of the Environmental Improvement Act
13 and shall include:

14 A. requirements and procedures for the issuance of
15 permits and registrations to tire recycling facilities, civil
16 engineering applications, scrap tire generators and scrap tire
17 haulers;

18 B. standards and requirements for tire recycling
19 and scrap tire storage and processing;

20 C. record-keeping requirements for tire recycling
21 facilities, scrap tire haulers and scrap tire generators;

22 D. financial assurance criteria for tire recycling
23 facilities;

24 E. fire rules for storage of scrap tires and tire-
25 derived products that are consistent with the rules or

underscored material = new
[bracketed material] = delete

1 recommendations adopted by the state fire marshal;

2 F. criteria and procedures for making disbursements
 3 pursuant to grant and loan programs authorized from the
 4 recycling and illegal dumping fund;

5 G. requirements and procedures for contracting with
 6 counties, municipalities, Indian nations, pueblos and tribes,
 7 land grant communities and cooperative associations for the
 8 abatement of illegal dumpsites and recycling;

9 H. requirements and procedures for a scrap tire
 10 manifest system;

11 I. a fee schedule applicable to scrap tire haulers
 12 and tire recycling facilities not exceeding the estimated cost
 13 of investigating and issuing permits and registrations and
 14 conducting regulatory oversight of permitted and registered
 15 activities; and

16 J. a fee schedule applicable to scrap tire
 17 generators not exceeding the estimated cost of conducting
 18 regulatory oversight of scrap tire generators.

19 Section 9. [NEW MATERIAL] SCRAP TIRE MANIFEST SYSTEM -- A
 20 scrap tire generator who transports or offers for
 21 transportation, scrap tires for offsite handling, altering,
 22 storage, disposal or for any combination thereof shall complete
 23 a scrap tire manifest pursuant to rules adopted by the board.
 24 Upon demand, the manifest for every generator whose scrap tire
 25 load is transported shall be shown to an officer of the motor

. 157531. 1

underscored material = new
 [bracketed material] = delete

1 transportation division of the department of public safety,
2 the New Mexico state police, a local law enforcement officer or
3 the secretary or the secretary's designee.

4 Section 10. [NEW MATERIAL] SOLID WASTE PERMIT
5 EXEMPTION. --A person operating a tire recycling facility under
6 a permit issued pursuant to the Recycling and Illegal Dumping
7 Act shall not be required to obtain a permit for that facility
8 pursuant to the Solid Waste Act.

9 Section 11. [NEW MATERIAL] ABATEMENT OF ILLEGAL
10 DUMPSITE. --

11 A. The department may bring an abatement action
12 pursuant to the provisions of Section 30-8-8 NMSA 1978 to
13 eliminate an illegal dumpsite.

14 B. The secretary may act administratively to
15 eliminate illegal dumpsites pursuant to the provisions of the
16 Recycling and Illegal Dumping Act.

17 C. Nothing in this section shall prohibit a
18 municipality, county, Indian nation, pueblo or tribe, land
19 grant community or cooperative association from contracting for
20 services to complete an abatement action.

21 Section 12. [NEW MATERIAL] AUTHORIZATION FOR ABATEMENT
22 CONTRACTS. --The secretary may contract with the governing body
23 of a county, municipality, Indian nation, pueblo or tribe, land
24 grant community or cooperative association for the abatement of
25 illegal dumpsites located within the boundaries of the county,

1 municipality, Indian nation, pueblo or tribe, land grant
 2 community, cooperative association or solid waste authority.
 3 The contract shall provide for the reimbursement of the county,
 4 municipality, Indian nation, pueblo or tribe, land grant
 5 community or cooperative association for expenses incurred in
 6 bringing an abatement action, including court costs, reasonable
 7 attorney fees and the actual expense of elimination of the
 8 illegal dumpsite if that expense is not recovered from and paid
 9 by the owner or operator of the illegal dumpsite as a result of
 10 the abatement action.

11 Section 13. [NEW MATERIAL] ENFORCEMENT-- COMPLIANCE
 12 ORDERS. --

13 A. Whenever the secretary determines that a person
 14 has violated or is violating any requirement or prohibition of
 15 the Recycling and Illegal Dumping Act, a rule adopted pursuant
 16 to that act or a condition of a permit issued pursuant to that
 17 act, the secretary may:

18 (1) issue a compliance order stating with
 19 reasonable specificity the nature of the violation and
 20 requiring compliance immediately or within a specified time
 21 period or assessing a civil penalty for any past or current
 22 violation or both; and

23 (2) commence a civil action in district court
 24 for appropriate relief, including a temporary or permanent
 25 injunction.

. 157531. 1

1 B. A compliance order issued pursuant to this
2 section may include a suspension or revocation of a permit or
3 portion of the permit issued by the secretary. A penalty
4 assessed in the compliance order shall not exceed five thousand
5 dollars (\$5,000) per day of noncompliance for each violation.

6 C. A compliance order issued pursuant to this
7 section shall state with reasonable specificity the nature of
8 the required corrective action or other response measure and
9 shall specify a time for compliance.

10 D. A compliance order issued pursuant to this
11 section shall become final unless, no later than thirty days
12 after the order is served, the person named in the order
13 submits a written request to the secretary for a public
14 hearing. Upon a request, the secretary promptly shall conduct
15 a public hearing. The secretary shall appoint an independent
16 hearing officer to preside over the public hearing. The
17 hearing officer shall make and preserve a complete record of
18 the proceedings and forward a recommendation to the secretary,
19 who shall make the final decision.

20 E. The secretary may seek enforcement of the order
21 by filing an action for enforcement in the district court.

22 F. Upon request of a party, the secretary may issue
23 subpoenas for the attendance and testimony of witnesses at the
24 hearing and for the production of relevant documents. The
25 secretary shall adopt procedural rules for the conduct of the

1 hearing, including provisions for discovery.

2 G. In determining the amount of a penalty
3 authorized to be assessed pursuant to this section, the
4 secretary shall take into account the seriousness of the
5 violation, good-faith efforts of the violator to comply with
6 applicable requirements of the Recycling and Illegal Dumping
7 Act or rules issued pursuant to its provisions and other
8 relevant factors.

9 Section 14. [NEW MATERIAL] ENFORCEMENT-- FIELD
10 CITATIONS. --

11 A. The board shall implement a field citation
12 program by adopting rules establishing appropriate minor
13 violations for which field citations assessing civil penalties
14 not to exceed one thousand dollars (\$1,000) per day of
15 violation may be issued by local government authorities or
16 employees of the department as designated by the secretary.

17 B. A field citation issued pursuant to this section
18 shall be final unless the person named in the citation files a
19 written request for a public hearing with the secretary no
20 later than fifteen days after the date on which the field
21 citation is served on the person, in which case the enforcement
22 of the field citation shall be suspended pending the issuance
23 of a final order of the secretary after a public hearing. The
24 procedures for scheduling and conducting a hearing on and for
25 final disposition of a field citation shall be the same as

. 157531. 1

1 those provided for a compliance order pursuant to the Recycling
2 and Illegal Dumping Act.

3 C. Payment of a civil penalty required by a field
4 citation issued pursuant to this section shall not be a defense
5 to further enforcement by the department to correct a
6 continuing violation or to assess the maximum statutory penalty
7 pursuant to the provisions of the Recycling and Illegal Dumping
8 Act if the violation continues.

9 D. In determining the amount of a penalty to be
10 assessed pursuant to this section, the secretary or the person
11 issuing a field citation shall take into account the
12 seriousness of the violation, good-faith efforts of the
13 violator to comply with the applicable requirements of the
14 Recycling and Illegal Dumping Act or rules issued pursuant to
15 its provisions and other relevant factors.

16 E. In connection with a proceeding pursuant to this
17 section, the secretary may issue subpoenas for the attendance
18 and testimony of witnesses and the production of relevant
19 papers, books and documents and may adopt rules for
20 discovery.

21 Section 15. [NEW MATERIAL] JUDICIAL REVIEW OF
22 ADMINISTRATIVE ACTIONS. -- A person adversely affected by an
23 administrative action taken by the secretary pursuant to the
24 provisions of the Recycling and Illegal Dumping Act may appeal
25 the action pursuant to Section 39-3-1.1 NMSA 1978.

. 157531. 1

Section 16. [NEW MATERIAL] PENALTY-- CRIMINAL. --

A. A person who knowingly violates Section 4 of the Recycling and Illegal Dumping Act:

(1) is guilty of a misdemeanor if the violation involves a quantity of scrap tires or tire-derived products that is less than five thousand pounds and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; or

(2) is guilty of a fourth degree felony if the violation involves a quantity of scrap tires or tire-derived products that is five thousand pounds or greater and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

B. A person who knowingly omits any substantive information or knowingly makes a false substantive statement or representation required pursuant to the Recycling and Illegal Dumping Act or rule adopted pursuant to the provisions of that act is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

Section 17. [NEW MATERIAL] GRANTS-- ELIGIBILITY-- APPLICATIONS. --

A. A municipality, county, Indian nation, pueblo or tribe, land grant community, cooperative association or solid waste authority that meets eligibility requirements established

. 157531. 1

underscored material = new
[bracketed material] = delete

1 by the board may apply for a grant for providing funds to
2 public landfills to offset the cost of collecting or recycling
3 of tires or submit a competitive bid for a loan or contract for
4 development costs or operating costs to establish a recycling
5 facility, purchase equipment, perform marketing, purchase
6 products produced by a recycling facility, provide educational
7 outreach, develop recycling infrastructure, abate illegal
8 dumpsites or contract with vendors to promote recycling and to
9 abate illegal dumpsites consistent with provisions of the
10 Recycling and Illegal Dumping Act. The first priority for
11 funding shall be abatement of illegal scrap tire dumpsites and
12 the recycling of scrap tires.

13 B. A grant, loan or contract for processing shall
14 not be awarded pursuant to the Recycling and Illegal Dumping
15 Act to a person who receives less than ninety-five percent of
16 recyclable materials from sources in New Mexico.

17 C. Nothing in this section prohibits a
18 municipality, county, Indian nation, pueblo or tribe, land
19 grant community or cooperative association from contracting for
20 services to complete an abatement action.

21 D. At least two-thirds of budgeted grant money in
22 each fiscal year shall be allocated to tire abatement and
23 recycling programs, and one-third of budgeted grant money in
24 each fiscal year shall be allocated to abatement of illegal
25 dumping and recycling of other solid wastes.

1 Section 18. [NEW MATERIAL] RUBBERIZED ASPHALT PROGRAM --

2 The department of transportation may use rubberized asphalt in
3 paving mixtures for state and local highway projects and to pay
4 added expenses that may result from using rubberized asphalt.

5 The department of transportation shall adopt rules for the
6 administration of the rubberized asphalt program, including the
7 development of procedures for disbursement of money to
8 municipalities and counties for the use of rubberized asphalt
9 in paving mixtures and shall develop paving specifications for
10 the use of rubberized asphalt.

11 Section 19. [NEW MATERIAL] RECYCLING AND ILLEGAL DUMPING

12 FUND CREATED.--The "recycling and illegal dumping fund" is
13 created in the state treasury. Fees and penalties collected
14 pursuant to the Recycling and Illegal Dumping Act shall be
15 deposited into the fund. Money in the fund is appropriated to
16 the department for abatement of illegal dumpsites, for
17 processing, transportation or recycling of all recyclable
18 materials and scrap tires, for providing funds to public
19 landfills in New Mexico to offset the cost of collecting or
20 recycling of tires and for carrying out the provisions of the
21 Recycling and Illegal Dumping Act. Any unexpended or
22 unencumbered balance or income earned from the money in the
23 recycling and illegal dumping fund remaining at the end of a
24 fiscal year shall not revert to the general fund.

25 Disbursements from the fund shall be by warrant drawn by the

. 157531. 1

1 secretary of finance and administration pursuant to vouchers
2 signed by the secretary of environment or the secretary's
3 designee.

4 Section 20. [NEW MATERIAL] RUBBERIZED ASPHALT FUND

5 CREATED. --The "rubberized asphalt fund" is created in the state
6 treasury. Money in the fund is appropriated to the department
7 of transportation to pay additional expenses that might result
8 from using rubberized asphalt paving mixes, to allocate at
9 least fifty percent of the fund to local governments for that
10 purpose and to carry out the provisions of the rubberized
11 asphalt program, including hiring a term employee to administer
12 the program. Disbursements from the fund shall be by warrant
13 drawn by the secretary of finance and administration pursuant
14 to vouchers signed by the secretary of transportation or the
15 secretary's designee. Any unexpended or unencumbered balance
16 remaining in the rubberized asphalt fund at the end of a fiscal
17 year shall not revert to the general fund.

18 Section 21. Section 66-6-23 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 358, as amended) is amended to read:

20 "66-6-23. DISPOSITION OF FEES. --

21 A. After the necessary disbursements for refunds
22 and other purposes have been made, the money remaining in the
23 motor vehicle suspense fund, except for remittances received
24 within the previous two months that are unidentified as to
25 source or disposition, shall be distributed as follows:

. 157531. 1

1 (1) to each municipality, county or fee agent
2 operating a motor vehicle field office:

3 (a) an amount equal to six dollars
4 (\$6.00) per driver's license and three dollars (\$3.00) per
5 identification card or motor vehicle or motorboat registration
6 or title transaction performed; and

7 (b) for each such agent determined by
8 the secretary pursuant to Section 66-2-16 NMSA 1978 to have
9 performed ten thousand or more transactions in the preceding
10 fiscal year, other than a class A county with a population
11 exceeding three hundred thousand or a municipality with a
12 population exceeding three hundred thousand that has been
13 designated as an agent pursuant to Section 66-2-14.1 NMSA 1978,
14 an amount equal to one dollar (\$1.00) in addition to the amount
15 distributed pursuant to Subparagraph (a) of this paragraph for
16 each driver's license, identification card, motor vehicle
17 registration, motorboat registration or title transaction
18 performed;

19 (2) to each municipality or county, other than
20 a class A county with a population exceeding three hundred
21 thousand or a municipality with a population exceeding three
22 hundred thousand that has been designated as an agent pursuant
23 to Section 66-2-14.1 NMSA 1978, operating a motor vehicle field
24 office, an amount equal to fifty cents (\$.50) for each
25 administrative service fee remitted by that county or

. 157531. 1

1 municipality to the department pursuant to the provisions of
2 Subsection A of Section 66-2-16 NMSA 1978;

3 (3) to the state road fund:

4 (a) an amount equal to the fees
5 collected pursuant to Section 66-7-413.4 NMSA 1978;

6 (b) an amount equal to the fee collected
7 pursuant to Section 66-3-417 NMSA 1978;

8 (c) the remainder of each driver's
9 license fee collected by the department employees from an
10 applicant to whom a license is granted after deducting from the
11 driver's license fee the amount of the distribution authorized
12 in Paragraph (1) of this subsection with respect to that
13 collected driver's license fee; and

14 (d) an amount equal to fifty percent of
15 the fees collected pursuant to Section 66-6-19 NMSA 1978;

16 (4) to the local governments road fund, the
17 amount of the fees collected pursuant to Subsection B of
18 Section 66-5-33.1 NMSA 1978 and the remainder of the fees
19 collected pursuant to Subsection A of Section 66-5-408 NMSA
20 1978;

21 (5) to the department:

22 (a) any amounts reimbursed to the
23 department pursuant to Subsection C of Section 66-2-14.1 NMSA
24 1978;

25 (b) an amount equal to two dollars

1 (\$2.00) of each motorcycle registration fee collected pursuant
2 to Section 66-6-1 NMSA 1978;

3 (c) an amount equal to the fees provided
4 for in Subsection D of Section 66-2-7 NMSA 1978, Subsection E
5 of Section 66-2-16 NMSA 1978, Subsections J and K of Section
6 66-3-6 NMSA 1978 other than the administrative fee, Subsection
7 C of Section 66-5-44 NMSA 1978 and Subsection B of Section
8 66-5-408 NMSA 1978;

9 (d) the amounts due to the department
10 for the manufacture and issuance of a special registration
11 plate collected pursuant to the section of law authorizing the
12 issuance of the specialty plate; and

13 (e) an amount equal to the registration
14 fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the
15 purposes of enforcing the provisions of the Mandatory Financial
16 Responsibility Act and for creating and maintaining a
17 multilanguage noncommercial driver's license testing program;

18 (6) to each New Mexico institution of higher
19 education, an amount equal to that part of the fees distributed
20 pursuant to Paragraph (2) of Subsection D of Section 66-3-416
21 NMSA 1978 proportionate to the number of special registration
22 plates issued in the name of the institution to all such
23 special registration plates issued in the name of all
24 institutions;

25 (7) to the armed forces veterans license fund,

. 157531. 1

1 the amount to be distributed pursuant to Paragraph (2) of
2 Subsection E of Section 66-3-419 NMSA 1978;

3 (8) to the children's trust fund, the amount
4 to be distributed pursuant to Paragraph (2) of Subsection D of
5 Section 66-3-420 NMSA 1978;

6 (9) to the department of transportation, an
7 amount equal to the fees collected pursuant to Section 66-5-35
8 NMSA 1978;

9 (10) to the state equalization guarantee
10 distribution made annually pursuant to the general
11 appropriation act, an amount equal to one hundred percent of
12 the driver safety fee collected pursuant to Subsection D of
13 Section 66-5-44 NMSA 1978;

14 (11) to the motorcycle training fund, two
15 dollars (\$2.00) of each motorcycle registration fee collected
16 pursuant to Section 66-6-1 NMSA 1978;

17 (12) to the ~~[tire recycling fund]~~ recycling
18 and illegal dumping fund;

19 (a) fifty cents (\$.50) of the tire
20 recycling fee collected pursuant to the provisions of Section
21 66-6-1 NMSA 1978;

22 (b) fifty cents (\$.50) of each of the
23 tire recycling fees collected pursuant to the provisions of
24 Sections 66-6-2 and 66-6-4 NMSA 1978; and

25 (c) twenty-five cents (\$.25) of each of

1 the tire recycling fees collected pursuant to Sections 66-6-5
2 and 66-6-8 NMSA 1978;

3 (13) to the highway infrastructure fund:

4 (a) fifty cents (\$.50) of the tire
5 recycling fee collected pursuant to the provisions of Section
6 66-6-1 NMSA 1978;

7 (b) one dollar (\$1.00) of each of the
8 tire recycling fees collected pursuant to the provisions of
9 Sections 66-6-2 and 66-6-4 NMSA 1978; and

10 (c) twenty-five cents (\$.25) of each of
11 the tire recycling fees collected pursuant to Sections 66-6-5
12 and 66-6-8 NMSA 1978;

13 (14) to each county, an amount equal to fifty
14 percent of the fees collected pursuant to Section 66-6-19 NMSA
15 1978 multiplied by a fraction, the numerator of which is the
16 total mileage of public roads maintained by the county and the
17 denominator of which is the total mileage of public roads
18 maintained by all counties in the state;

19 (15) to the litter control and beautification
20 fund, an amount equal to the fees collected pursuant to Section
21 66-6-6.2 NMSA 1978; and

22 (16) to the local government division of the
23 department of finance and administration, an amount equal to
24 the fees collected pursuant to Section 66-3-424.3 NMSA 1978 for
25 distribution to each county to support animal control spaying

. 157531. 1

1 and neutering programs in an amount proportionate to the number
2 of residents of that county who have purchased pet care special
3 registration plates pursuant to Section 66-3-424.3 NMSA 1978.

4 B. The balance, exclusive of unidentified
5 remittances, shall be distributed in accordance with Section
6 66-6-23.1 NMSA 1978.

7 C. If any of the paragraphs, subsections or
8 sections referred to in Subsection A of this section are
9 recompiled or otherwise redesignated without a corresponding
10 change to Subsection A of this section, the reference in
11 Subsection A of this section shall be construed to be the
12 recompiled or redesignated paragraph, subsection or section."

13 Section 22. SAVING CLAUSE--CONTINUING EFFECT OF PRIOR
14 ACTIONS.--Repeal of the Tire Recycling Act does not affect the
15 validity of regulations enacted pursuant to the Tire Recycling
16 Act, which shall continue in force and effect until amended or
17 repealed. Repeal of the Tire Recycling Act does not affect
18 prior violations of the Tire Recycling Act or regulations
19 enacted pursuant to the Tire Recycling Act. All permits and
20 registrations issued pursuant to the Tire Recycling Act shall
21 remain in effect until they expire or they are suspended,
22 revoked or otherwise modified.

23 Section 23. REPEAL.--Sections 74-11-1 through 74-11-17
24 NMSA 1978 (being Laws 1994, Chapter 117, Sections 1 through 17
25 and Laws 1994, Chapter 126, Sections 1 through 17, as amended)

. 157531. 1

1 are repeal ed.

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

underscored material = new
[bracketed material] = delete